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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

**EDWIN SUAREZ, CARLOS RIVAS, ESTER
JIRON, DRISS SENE, IMMANUEL
THORNTON, and PAULA VILLEGAS,
individually and on behalf of all others
similarly situated;**

No: 1:16-cv-5464 (RLE)

Plaintiffs,

-against-

**ROSA MEXICANO BRANDS INC.; WEST 62
OPERATING LLC; ROSA MEXICANO USQ
LLC; FENIX REST. INC.; ROSA MEXICANO
MURRAY LLC; ROSA MEXICANO
BOSTON, LLC; ROSA MEXICANO
RIVERSIDE LLC; ROSA MEXICANO DC
LLC; ROSA MEXICANO CHEVY CHASE
MARYLAND LLC; ROSA MEXICANO
NATIONAL HARBOR LLC; ROSA
MEXICANO ATLANTA LLC; ROSA
MEXICANO MIAMI LLC; and ROSA
MEXICANO SOUTH BEACH LLC;**

Defendants.

**NOTICE OF PLAINTIFFS' UNOPPOSED MOTION FOR PRELIMINARY APPROVAL
OF SETTLEMENT, CONDITIONAL CERTIFICATION OF THE SETTLEMENT
CLASS, APPOINTMENT OF PLAINTIFFS' COUNSEL AS CLASS COUNSEL, AND
APPROVAL OF PLAINTIFFS' PROPOSED NOTICES OF SETTLEMENT
AND CLASS ACTION SETTLEMENT PROCEDURE**

For the reasons set forth in the Memorandum of Law in Support of Plaintiffs' Motion for Preliminary Approval of Settlement, Conditional Certification of the Settlement Class, Appointment of Plaintiffs' Counsel as Class Counsel, and Approval of Plaintiffs' Proposed Notices

of Settlement and Class Action Settlement Procedure (“Motion for Preliminary Approval”) and in the Declaration of Brian S. Schaffer in Support of Plaintiffs’ Motion for Preliminary Approval (“Schaffer Declaration”), and based on the pleadings and proceedings heretofore had herein, Plaintiffs respectfully move the Court, before the Hon. Ronald L. Ellis, United States Magistrate Judge, in the United States District Court for the Southern District of New York, 500 Pearl Street, Courtroom 11C, New York, NY 10007, on a return date to be set by the Court, to enter an Order:

(1) granting preliminary approval of the Joint Stipulation of Settlement and Release (“Settlement Agreement”), attached as **Exhibit A** to the Schaffer Declaration;

(2) conditionally certifying the following settlement classes under Fed. R. Civ. P. 23(a) and (b)(3) for purposes of effectuating the settlement:

All persons who were employed as a server, server assistant, busser, runner, drink runner, coffee bar employee, cocktail server, bartender, service bartender and/or barback in any Rosa Mexicano restaurants in New York at any time during the time period from April 7, 2010 through and including May 17, 2017

- and -

All persons who were employed as a server, server assistant, busser, runner, drink runner, coffee bar employee, cocktail server, bartender, service bartender and/or barback in any Rosa Mexicano restaurant in Massachusetts or Maryland at any time during the period from April 7, 2013 through and including May 17, 2017.

(3) conditionally certifying the following settlement class under 29 U.S.C. § 216(b):

All persons who were employed as a server, server assistant, busser, runner, drink runner, coffee bar employee, cocktail server, bartender, service bartender and/or barback in any Rosa Mexicano restaurant in New Jersey, Washington, D.C., Georgia, and Florida at any time during the period from April 7, 2013 through and including May 17, 2017.

(4) appointing Fitapelli & Schaffer, LLP as Class Counsel;

(5) approving Plaintiffs’ Notices of Class and Collective Action Lawsuit Settlement

and Fairness Hearing, attached as **Exhibit B** and **C** to the Schaffer Declaration;

(6) granting preliminary approval of the retention of Arden Claims Service to administer the settlement process and distribute the Notices of Class and Collective Action Lawsuit Settlement and Fairness Hearing;

(7) approving Plaintiffs' proposed schedule for final settlement approval; and

(8) granting such other, further, or different relief as the Court deems just and proper.

* * *

Plaintiffs have contemporaneously submitted a Proposed Order, attached as **Exhibit D** to the Schaffer Declaration, for the Court's convenience.

Dated: New York, New York
August 7, 2017

Respectfully submitted,

/s/ Brian S. Schaffer

Brian S. Schaffer

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*Attorneys for Plaintiffs and
the Putative Classes*